

Request for Proposal

542-8994

**THREE - YEAR CONTRACT FOR RISK MANAGEMENT CONSULTING
SERVICES**

**Opens: March 3, 2004
2:00 P.M.**



City of Fort Lauderdale

**Issued for Finance Department/Risk Management Division
By the Procurement & Materials Management Division**

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RFP NO. 542-8994, THREE - YEAR CONTRACT FOR RISK MANAGEMENT CONSULTANT SERVICES
– “AS NEEDED”

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PART I: INTRODUCTION/INFORMATION

1. PURPOSE: The City of Fort Lauderdale is soliciting proposals from qualified independent risk management consulting firms to act as Consultant(s) to the City's Risk Management Division and/or Insurance Advisory Board on an "as needed" basis, in accordance with the Request for Proposal (RFP) specifications.

2. PROPOSER QUALIFICATIONS/ELIGIBILITY: Proposers must be in the business of providing Risk Management Consulting services. The City shall not consider proposals received from Proposers who serve in the capacity of agents, brokers, or sales representatives or associates of any insurance company, health care carrier, or provider of medical services.

Proposals will be considered only from proposers who are regularly engaged in the service specified. Proposers shall have a minimum of three years prior experience providing the services as contained in the RFP. Such service provided in a public environment (government) is desired. All proposers shall provide the City with credentials to support prior experience and ability to provide the services as contained in the RFP specifications. Such credentials shall include, but not necessarily be limited to: a list of client references, previous and current contracts for these services, training, and number of years providing such services.

3. CONTRACT TERM: The initial contract term shall be for three (3) years. The City reserves the right to extend the contract for up to **two (2), three (3) year** extensions terms, providing all terms, conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the City.

4. ADDITIONAL INFORMATION: For information concerning procedures for responding to this RFP, contact Procurement Specialist II, Linda Wilson, at (954) 828-5146. For information concerning the technical specifications contained in this RFP, contact Terry Sharp, Finance Director (954) 828-5165, or Marylee Coyle, Benefits Manager (954) 828-5436. Such contact shall be for clarification purposes only. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum.

4.1. LAST DATE FOR RECEIPT OF MATERIAL QUESTIONS: The last date for receipt of all questions of a material nature is shown in the RFP schedule of this document. It is preferred that all questions be submitted in writing prior to the date and time shown. All questions should be mailed, e-mailed or faxed to the Procurement Division, 100 North Andrews Avenue, Fort Lauderdale, FL, 33301, attn: Linda Wilson. To facilitate prompt receipt of questions, they can be sent via FAX to (954) 828-5576, or e-mail address lwilson@fortlauderdale.gov

Proposers please note: No part of your proposal can be submitted via FAX. The entire proposal must be submitted in accordance with the Instructions To Proposers contained in this RFP.

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PART II - RFP SCHEDULE

****TENTATIVE****

Release Notice of RFP	02/06/04
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Last Date for Questions	2/16/04 5:00 PM
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Addendum Release, if required	2/19/04
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PROPOSALS DUE:	March 3, 2004 2:00 P.M
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Evaluation Committee Review of Proposals AND Short listing of proposers (If required)	Thursday March 11, 2004
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Oral Interviews and Final Ranking of proposers (if required)	Thursday March 18, 2004
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Anticipated Award to Top Ranked Proposer.	March 22, 2004
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Anticipated Contract Start Date:	March 29, 2004
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Proposers should be aware that the City wishes to complete the RFP process and finalize a Contract Award in accordance with the schedule referenced in the RFP specifications.

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PART III - SPECIAL CONDITIONS

1. RULES AND PROPOSALS: The signer(s) of the proposal must declare that the only person(s), company or parties interested in the proposal as principals are named therein; that the proposal is made without collusion with any other person(s), company or parties submitting a proposal; that it is in all respects fair and in good faith, without collusion or fraud; and that the signer of the proposal has full authority to bind the principal proposer.

2. VARIANCES: While the City allows Contractors to take variances to the RFP terms, conditions, and specifications, the number and extent of the variances taken will be considered in determining proposal responsiveness, and in allocating proposal evaluation points. (See Evaluation & Award, Part V.)

3. CONFIDENTIAL INFORMATION: Florida law provides that municipal records shall at all times be open for personal inspection by any person. Section 119.01 F.S., The Public Records Law. Information and materials received by the City in connection with all Proposer's responses shall be deemed to be public records subject to public inspection upon award, recommendation for award, or 10 days after the RFP opening, whichever occurs first. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. Therefore, if the Proposer believes any of the information contained in his or her response is exempt from the Public Records Law, then the Proposer must in his or her response specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption, otherwise, the City will treat all materials received as public records.

4. INVOICES: The City will accept invoices no more frequently than one per month. Each invoice shall be accompanied by records fully detail the hourly costs, and all related costs, if applicable, and shall specify the status of the particular task or project, as of the date of the invoice. The City will endeavor to pay all invoices completely within thirty (30) days of acceptance of the invoice, except for items questioned. The City will make every effort to notify the Contractor within ten (10) days of receipt of invoice of any items questioned. The Contractor shall prepare verification data for the amount claimed and provide complete cooperation during such investigation of any areas in the invoice subject to question.

5. RECORDS: The Contractor shall maintain during the term of the contract all books of account, receipt invoices, reports and records in accordance with generally accepted accounting practices and standards. The form of all records and reports shall be subject to the approval of the City's Internal Auditor. Recommendations for changes, additions or deletions by the City's Internal Auditor must be complied with by the Contractor. The City's Internal Auditor must be permitted, during normal business hours, to audit and examine the books of account, reports and records relating to this contract.

6. PRICING & COST ADJUSTMENTS: **The prices offered and accepted must remain firm for the initial three (3) year contract term.** Costs for any subsequent extensions are subject to an adjustment only if an increase occurs throughout the local industry. Unless very unusual and significant changes have occurred in the industry, **such increases shall not exceed 5% per contract extension or, the latest yearly percentage (%) increase in the All Urban Consumers Price Index (CPI-U) as published by the Bureau of Labor Statistics, U. S. Department of Labor, whichever is less.**

Any such increase must be documented and submitted in writing to the City at least one hundred and twenty (120) days prior to the contract anniversary date. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented or are considered by the City to be excessive. In the event that the City determines that the costs as submitted are not properly documented or are excessive and the matter can not be resolved to the satisfaction of the City, the contract can be cancelled by the City upon giving thirty (30) days written notice to the Contractor.

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7. MINORITY-WOMEN BUSINESS ENTERPRISE PARTICIPATION: It is the desire of the City of Fort Lauderdale to increase the participation of minority (MBE) and women-owned (WBE) businesses in its contracting and procurement programs. While the City does not have any preference or set aside programs in place, it is committed to a policy of equitable participation for these firms.

If a proposer is considered for award, he/she may be asked to meet with City personnel so that the intended MBE/WBE participation can be formalized and included in the subsequent contract.

Certification by Broward County, Florida: If awarded a contract or purchase order as a result of this solicitation, and if the awarded contractor/vendor is claiming minority status in accordance with Section 1.08 of the general Conditions, then said **awarded contractor/vendor will apply for certification by Broward County, Florida, Division of Equal Employment and Small Business Opportunity.** Contractor/vendor will provide documentation of application status, and once approved or disapproved by Broward County, will also provide that documentation to the Procurement Division of the City of Fort Lauderdale.

Proposers are requested to include in their proposals a narrative describing their past accomplishments and intended actions in this area. If proposers are considering minority or women owned enterprise participation in their proposal, those firms, and their specific duties have to be identified in the proposal.

See General Conditions, Section 1.08 for MBE and WBE definitions.

8. ADDITION OR DELETION OF SERVICES: The City may require services of a similar nature for items not specifically listed in the RFP during the Contract term. The Contractor agrees to provide such services, and shall provide the City prices or contractual terms on such additional services based on a formula or method that is the same as, or similar to, that used in establishing the prices or contractual terms in his/her RFP proposal. If the price(s) or term(s) offered are not acceptable to the City, and an agreement cannot be reached to the satisfaction of the City, the City reserves the right to procure those services from other qualified Contractors.

The City reserves the right to delete any portion of this Contract at any time without cause, and if such right is exercised by the City the total fee shall be increased or reduced in the same ratio as the estimated cost of the work added or deleted to the estimated cost of the work originally planned.

9. SELLING, TRANSFERRING OR ASSIGNING CONTRACT: No contract awarded under these terms, conditions and specifications shall be sold, transferred or assigned without the written approval of the City Manager, or designee.

10. SUBSTITUTION OF PERSONNEL: In the event the Consultant wishes to substitute any key personnel for those listed in his proposal, the City shall receive prior notice and shall have the right to review and approve such substitutions.

If the City has reasonable evidence to believe that an employee of the Consultant, working on City property, is incompetent, or has performed his or her employment in an objectionable manner, the City shall have the right to require the Consultant to resolve the situation to the City's satisfaction. However, the Consultant shall not be required to institute or pursue to completion any action if to do so would violate any law, statute, City ordinance, contract of employment, or union agreement.

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11. CONFLICT OF INTEREST: Proposers are required to include a disclosure statement of any potential conflict of interest the firm may have due to other clients, current or former employees, contracts or interests associated with this project.

12. GENERAL CONDITIONS: Except as noted in the Special Conditions in the RFP, the terms and conditions of the General Conditions, FORM G-107, REV. 7/01, attached to the RFP, are included by reference.

13. NO EXCLUSIVE CONTRACT/ADDITIONAL SERVICES: Contractor agrees and understands that the contract shall not be construed as an exclusive arrangement and further agrees that the City may, at any time, secure similar or identical services at its sole option.

While this contract is for services provided to the City's Administrative Services Department, the City may require similar work for other City departments. Contractor agrees to take on perform such services as may be required under the same contract provisions, unless such work would not be considered reasonable or become an undue burden to the Contractor.

14. SUBCONTRACTING: In the event subcontracting is permitted, the Proposer shall include all details regarding any sub-contractor in the RFP response, including credentials to support the experience and ability of the sub-contractor to perform the services outlined within the RFP specifications. The City reserves the right to accept or reject any proposed sub-contractor who does not meet the RFP requirements. If during the Contract term any subsequent subcontractor candidate shall be proposed, the sub-contractor candidate shall be promptly reported to the City with enough detail to allow the City to properly review the proposed candidate. The City reserves the right to approve or disapprove of any subcontractor candidate in its best interest.

15. INDEPENDENT CONTRACTOR: The Contractor is an independent contractor under this Agreement. Personal services provided by the Contractor shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Contract shall be those of the Contractor.

16. INSURANCE: The Contractor shall carry at all times the following insurance coverage:

- Worker's Compensation & Employer's Liability Insurance
Limits: Statutory 440.055
Notwithstanding FS 440.055, any firm performing work on behalf of the City of Fort Lauderdale must provide Workers' Compensation insurance.
- Commercial General Liability including premises-operations, products-completed Operations, independent contractors, and contractual liability
Limits: Combined single limit Bodily Injury/Property Damage one million dollars (\$1,000,000.00). This coverage must include:
 - a) Coverage for liability assumed by the contractor under the indemnity provision of this contract.
- Automobile Liability Insurance covering all owned, hired and non-owned automobile equipment
Limits: Bodily Injury \$250,000/each person
Property Damage \$500,000 each occurrence
Combined Single Limit \$1,000,000 (Bodily Injury and Property Damage combined)

Such certificates shall list the City as an “additional insured” for both Commercial General Liability and Automobile Liability coverage, and shall have no less than thirty (30) days notice of

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cancellation.

- Professional Liability Insurance at all times of \$1,000,000 per occurrence, \$2,000,000 aggregate with defense costs covered in addition to limits.

All original certificates of insurance must be submitted to the Procurement Division and be approved by the City's Risk Manager prior to commencement of any work.

No work can be started until the certificate is submitted and approved by the City's Risk Management Division.

17. UNCONTROLLABLE CIRCUMSTANCES ("Force Majeure")

The City and Contractor will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

A. the non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;

B. the excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

C. no obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and

D. the non performing party uses its best efforts to remedy its inability to perform.

Notwithstanding the above, performance shall not be excused under this Section for a period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

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PART IV - SCOPE OF SERVICES

1. The scope of services shall include, but not necessarily be limited to the following:
 - a. Analyzing claims against the City on a periodic basis to determine trend of losses, and to project the effect of such trends upon the insured and self-insured programs.
 - b. Identify risk exposures, update exposure data, and determine insurance policies “need for amendment”
 - c. Review insurance policies for accuracy; follow-up with Broker(s) to resolve outstanding issues
 - d. Compile underwriting data and assist in preparation of Request for Proposals or Invitation to Bid, as may be requested
 - e. Assisting in the evaluation of responses to bid specifications for City's insurance programs.
 - f. Assisting the City in closing reserve accounts under prior City insurance programs with insurance carriers.
 - g. Consulting with the City in order to assure that benefit levels are maintained at a competitive basis.
 - h. Advising City of new options or funding techniques in insured and self-insured areas.
 - i. Advising the City of any major new or pending legislation in any field which would affect City's total benefit programs.
 - j. Assisting in the preparation of basic communication materials.
 - k. Acting on behalf of the City, if authorized to do so by the City, in any claims situations.
 - l. Monitoring overall claims procedures and administration.
 - m. Preparing an annual review of the City's plan experience.
 - n. Recommending rate or funding changes.
 - o. Assist in negotiations with insurance carriers in order to assure that the City has the most competitive rating and reserving practices while maintaining sound underwriting margins.
 - p. Assisting the City in matters of general benefit interpretation and claims, and administrative problems of a serious nature.
 - q. Advising and assisting the City's Insurance Advisory Board when consultant services are needed.
 - r. Perform other administrative functions related to insurance and Risk Management, “as needed”.

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1.1. Consultant, or consultant's professional staff personnel, will be available for telephone conversations, meetings, research and advice as may be requested by the City's Risk Manager. Where appropriate, Consultant will respond to inquiries in written opinions.

The City's Risk Manager may request Consultant's assistance in preparation, and evaluation of Invitations to Bid or Request for Proposals, and, if requested, in the negotiation process for insurance policies, or contracts for insurance related services.

Consultant may be required to provide written summaries of Consultant's conclusions and recommendations, and to make personal appearances to discuss these matters before the Insurance Advisory Board or the City Commission, if requested by the City's Risk Manager.

2. PRICING: The City's current Consultant averages approximately ninety (90) billing hours/per year in the performance of the services outlined in the RFP. **The number of hours has been fairly consistent for the past 2 years, and the average annual City expenditure is estimated not to exceed \$15,000. The City shall not guarantee any minimum number of hours/per year in this Contract. All consulting services shall be “as needed.”**

Proposers shall submit a firm, fixed, hourly cost to the City to perform the services contained in the RFP. This portion of the proposal should contain as a projected total annual number of hours anticipated by Proposer to perform these services. Proposers should be aware that the maximum City budget/per year for these services is \$15,000.00. The contract shall be based on Consultant providing services on an "as needed" basis, during the contract term, billable at the quoted hourly rate, plus any Consultant travel expenses up to but NOT TO EXCEED \$15,000.00/per year. The City shall pay for Consultant services based only on actual hours used, plus Consultant travel expenses (if applicable), in accordance with City travel policies, including per diem, and other travel related reimbursements.

The firm, fixed, hourly rate proposed shall include, but not necessarily be limited to: all Consultant fees, Consultant expenses, reproduction costs, telephone, supplies, and any other out-of-pocket expenses which may be incurred by the Consultant and his staff in the performance of services contained in any contract award which may result from this RFP.

3.0. RELATED EXPENSES/TRAVEL EXPENSES – IF APPLICABLE:

All related expenses chargeable to the City, such as supplies, printing, binders, etc. shall be passed through at Contractor's cost. Related expenses shall not include any postage, telephone toll charges, or other charges incurred in the normal course of business.

Any travel out of the tri-county (Dade, Broward and Palm Beach Counties) area shall be in accordance with current City per diem rates and travel policy. No costs for travel, meals, or accommodations shall be charged to the City for travel within the tri-county area unless the Contractor's office assigned to the project is located outside this area. Contractor shall incur no travel or related expenses chargeable to the City without prior approval by an authorized City representative. Contractor shall provide, if required by the City, documentation of all actual travel or related costs.

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PART V: CONSIDERATION FOR AWARD

The City will evaluate all proposals in accordance with the the criteria stated in the RFP specifications. Evaluation will be made by a Committee established for this purpose. The Committee will be composed of City staff, and any other qualified persons deemed necessary by the City. Award of the contract shall be based on the all information submitted by the proposer, a thorough review of all references provided, and certain objective and subjective considerations including:

EVALUATION CRITERIA

ASSIGNED POINTS

a. Proposer understanding of the scope of services; including a narrative description of proposed services, methodology, etc.

SCORE VALUE: 0 TO 20 POINTS

20

b. Qualifications and experience of both proposer and personnel assigned to all elements of the work specified.

SCORE VALUE: 0 TO 30 POINTS

30

c. Past experience providing these services within the past three (3) years. Proposer shall provide the City with a client reference listing, which includes information on annual total billing and hours/per client.

SCORE VALUE: 0 TO 30 POINTS

30

d. **TOTAL COST TO THE CITY:** (Based on firm, fixed hourly rate not to exceed annual cost of **\$15,000**, and proposer's projected total number of hours to provide the RFP services)

(The lowest cost will receive 20 points (maximum points))

SCORE VALUE: 0 TO 20 POINTS

20

TOTAL SCORE: 100 POINTS

Finalists who achieve an Average Score of 70 points or better, may be asked to appear before an Evaluation Committee, if desired by the City. Such oral presentation, if required, shall be for clarification and minor modifications, only.

The City reserves the right to award the contract to that Consultant who will best serve the interest of the City. The City reserves the right to accept or reject any or all proposals, or parts of proposals, and to waive minor variations to the specifications and in the RFP Process.

The selected Consultant will be required to enter into a formal agreement with the City.

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PART VI - INSTRUCTIONS TO PROPOSERS/REQUIREMENTS OF THE PROPOSAL

INSTRUCTIONS TO PROPOSERS:

Submission of a Proposal:

- a. Proposers are required to return their proposals signed by a representative who is authorized to contractually bind the Consultant.
- b. Proposers shall submit their proposals to the Procurement Division on or before the date and time indicated in this RFP.
- c. Proposers shall submit all costs in the formats specified on the Proposal Summary Forms included with this RFP.
- d. Proposal openings are open to the public. Proposer's confidential information, if applicable, should not be included in the proposal.
- e. The proposer shall examine this RFP carefully. Ignorance of the requirements will not relieve the Consultant from liability and obligations under the Contract.
- f. Each proposal shall be prepared simply and economically, providing a straightforward, concise delineation of the proposer's capabilities to satisfy the requirements of the RFP. Technical literature, if applicable, may be included. The emphasis in each proposal must be on completeness and clarity of content. In order to expedite the evaluation of proposals, it is essential that proposers follow the format and instructions contained herein.
- g. The City shall not be liable for any costs incurred by proposers in responding to this RFP.

Requirements of the Proposal:

All proposals must be submitted on the Proposal Pages included in the RFP. Any attachments must be clearly identified. To be considered the proposal must respond to all parts of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an Appendix to the proposal.

Proposals must include:

- a. **Proposal Summary Pages, properly completed and signed; completed RFP Questionnaire and Proposal Summary Pages.**
- b. **Proposals must contain detailed cost information on Proposers fee structure, in accordance with the RFP specifications. If applicable, the proposal shall additionally contain a fixed fee schedule/per hour/per classification of Proposer's employee(s), including consultant.**

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- c. **Summary of proposers experience providing these services to current and past clients during the past three (3) years; experience of proposer and staff members who will be assigned to this Contract, including resumes; and samples of other Consultant service contracts.**
- d. **Reference list of clients (including name, address, contact person and phone numbers). Proposer shall include information regarding the annual billings and number of hours of service/per client.**

PROPOSER MUST PROVIDE THE CITY WITH AN ORIGINAL AND SIX (6) COPIES OF THE PROPOSAL AND ALL APPENDICES. THIS IS A TOTAL OF SEVEN (7) SETS OF ALL RFP DOCUMENTS AND RELATED BACK-UP.

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PART VII QUESTIONNAIRE

PROPOSAL SUMMARY PAGES

Proposer to complete the following:

1. Company Name: _____
(legal registered)

Address: _____

Principal Contact Person: _____
(name and title)

Telephone Number: _____ **Fax No.:** _____ **E-Mail:** _____

2. Are there any services specified in the RFP which are NOT included in your proposal?

_____ **YES** _____ **NO**

If YES, please explain in the space below, or provide as an appendix to your proposal:

3. MINORITY/WOMAN OWNED BUSINESS: If your company qualifies as a MBE or WBE, in accordance with the General Conditions for G-107, Rv. 7/01, please indicate that in the space provided. **If you mark one of these categories, please also provide a copy of your MBE/WBE Certification as documentation.**

MBE: _____ WBE: _____

Certification copy included: YES: _____ NO: _____

4. ADDENDUM ACKNOWLEDGEMENT: Bidder acknowledges that the following addenda have been received and are included in his/her RFP response:

Addendum No:

Date Issued:

5. VARIANCES: State any variations to specifications, terms and conditions in the space provided below or reference in the space provided below, or reference in the space provided below all variances contained on other pages of RFP attachments or RFP pages. No variations or exceptions by the Proposer will be deemed to be part of the Bid submitted unless such variation or exception is listed and contained within the RFP documents and referenced in the space provided below.

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If no statement is contained in the space below, it is hereby implied that your Proposal complies with the full scope of this RFP.

VARIANCES:

6. After City approval of a contract, how many days will be required before you are able to begin the services required?

_____/days

7. a) Have you included information on your company's experience, including documentation of services performed, or copies of other contracts?

____YES ____NO

b) Have you included information on the experience of those principals, or employees who will be assigned to this Contract, INCLUDING RESUMES?

____YES ____NO

8. Have you included your client reference list, in accordance with RFP requirements ?

____ YES ____NO

9. Have you included your narrative description of your understanding of the Scope of Work, including your approach, understanding of the services required, techniques, methodology, etc., as requested in RFP specifications?

____YES ____NO

10. Give the location of the office from which the work is to be performed, if different from your company address:

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11. PRICING: Indicate in the space provided, your FIRM, FIXED HOURLY FEE SCHEDULE FOR SERVICES/PER EMPLOYEE CLASSIFICATION, in accordance with the RFP specifications. If additional space is required, please provide detailed information as an appendix to your proposal.

EMPLOYEE CLASSIFICATION

\$ FEE/PER HOUR

_____	\$ _____
_____	\$ _____
_____	\$ _____

Proposer, please indicate projected total number of hours/per year to perform Consultant services, in accordance with the RFP:

_____/hrs./per year

11. Should the City desire to have additional related tasks performed, would you be willing to enter into supplemental agreements, at the same firm, fixed fee schedule proposed above, and in accordance with the RFP terms and conditions?

_____YES _____NO

If NO, please explain in the space below:

12. HAVE YOU INCLUDED THE REQUIRED NUMBER OF PROPOSAL COPIES? (One original and 6 Copies)

_____YES _____NO

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City of Fort Lauderdale

GENERAL CONDITIONS

These instructions are standard for all contracts for commodities or services issued through the City of Fort Lauderdale Division of Procurement & Materials Management. The City may delete, supersede, or modify any of these standard instructions for a particular contract by indicating such change in the Invitation to Bid (ITB) Special Conditions, Technical Specifications, Instructions, Proposal Pages, Addenda, and Legal Advertisement.

PART I BIDDER PROPOSAL PAGE(S) CONDITIONS:

- 1.01 BIDDER ADDRESS:** The City maintains automated vendor mailing lists for each specific Commodity Class Item. Invitation to Bid (ITB'S) will be mailed first to a selection of Bidders who have fully registered on our system. Requests will be mailed to unregistered Bidders within a reasonable time frame for that bid only. Neither the mailing of one ITB to the vendor, nor a bid in return, will register a vendor on our system. If you wish purchase orders sent to a different address, please so indicate. If you wish payments sent to a different address, please so indicate on your invoice.
- 1.02 DELIVERY:** Time will be of the essence for any orders placed as a result of this ITB. The City reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the City.
- 1.03 PAYMENT TERMS AND CASH DISCOUNTS:** Payment terms, unless otherwise stated in this ITB, will be considered to be net 30 days after the date of satisfactory delivery at the place of acceptance and receipt of correct invoice at the office specified, whichever occurs last. Bidder may offer cash discounts for prompt payment but they will not be considered in determination of award. If a Bidder offers a discount, it is understood that the discount time will be computed from the date of satisfactory delivery, at the place of acceptance, and receipt of correct invoice, at the office specified, whichever occurs last.
- 1.04 TOTAL BID DISCOUNT:** If Bidder offers a discount for award of all items listed in the bid, such discount shall be deducted from the total of the firm net unit prices bid and shall be considered in tabulation and award of bid.
- 1.05 BIDS FIRM FOR ACCEPTANCE:** Bidder warrants, by virtue of bidding, that his bid and the prices quoted in his bid will be firm for acceptance by the City for a period of ninety (90) days from the date of bid opening unless otherwise stated in the ITB.
- 1.06 VARIANCES:** For purposes of bid evaluation, Bidder's must indicate any variances, no matter how slight, from ITB General Conditions, Special Conditions, Specifications or Addenda in the space provided in the ITB. No variations or exceptions by a Bidder will be considered or deemed a part of the bid submitted unless such variances or exceptions are listed in the bid and referenced in the space provided on the bidder proposal pages. If variances are not stated, or referenced as required, it will be assumed that the product or service fully complies with the City's terms, conditions, and specifications.
- By receiving a bid, City does not necessarily accept any variances contained in the bid. All variances submitted are subject to review and approval by the City. If any bid contains material variances that, in the City's sole opinion, make that bid conditional in nature, the City reserves the right to reject the bid or part of the bid that is declared, by the City as conditional.
- 1.07 NO BIDS:** If you do not intend to bid please indicate the reason, such as insufficient time to respond, do not offer product or service, unable to meet specifications, schedule would not permit, or any other reason, in the space provided in this ITB. Failure to bid or return no bid comments prior to the bid due and opening date and time, indicated in this ITB, may result in your firm being deleted from our Bidder's registration list for the Commodity Class Item requested in this ITB.
- 1.08 MINORITY AND WOMEN BUSINESS ENTERPRISE PARTICIPATION AND BUSINESS DEFINITIONS:** The City of Fort Lauderdale wants to increase the participation of Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Small Business Enterprises (SBE) in its purchasing activities. If your firm qualifies in accordance with the below definitions please indicate in the space provided in this ITB.

Minority Business Enterprise (MBE) "A Minority Business" is a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

The term 'Minority Business Enterprise' means a business at least 51 percent of which is owned by minority group members or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by minority group members. For the purpose of the preceding sentence, minority group members are citizens of the United States who include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

Women Business Enterprise (WBE) a "Women Owned or Controlled Business is a business enterprise at least 51 percent of which is owned by females or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by females.

Small Business Enterprise (SBE) "Small Business" means a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees or less than \$1,000,000 in annual gross receipts.

BLACK, which includes persons having origins in any of the Black racial groups of Africa.

WHITE, which includes persons whose origins are Anglo-Saxon and Europeans and persons of Indo-European decent including Pakistani and East Indian.

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HISPANIC, which includes persons of Mexican, Puerto Rican, Cuban, Central and South American, or other Spanish culture or origin, regardless of race.

NATIVE AMERICAN, which includes persons whose origins are American Indians, Eskimos, Aleuts, or Native Hawaiians.

ASIAN AMERICAN, which includes persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

1.09 MINORITY-WOMEN BUSINESS ENTERPRISE PARTICIPATION

It is the desire of the City of Fort Lauderdale to increase the participation of minority (MBE) and women-owned (WBE) businesses in its contracting and procurement programs. While the City does not have any preference or set aside programs in place, it is committed to a policy of equitable participation for these firms. Proposers are requested to include in their proposals a narrative describing their past accomplishments and intended actions in this area. If proposers are considering minority or women owned enterprise participation in their proposal, those firms, and their specific duties have to be identified in the proposal. If a proposer is considered for award, he will be asked to meet with City staff so that the intended MBE/WBE participation can be formalized and included in the subsequent contract.

- 1.09(a) CERTIFICATION BY BROWARD COUNTY, FL:** If awarded a contract or purchase order as a result of this solicitation, and if the awarded contractor/vendor is claiming minority status in accordance with Section 1.08 of the General Conditions, then said awarded contractor/vendor shall apply for certification by Broward County, Florida, Division of Equal Employment and Small Business Opportunity. Contractor/vendor shall provide documentation of application status, and once approved or disapproved by Broward County, must also provide that documentation to the Procurement Division of the City of Fort Lauderdale.

Part II DEFINITIONS/ORDER OF PRECEDENCE:

- 2.01 BIDDING DEFINITIONS** The City will use the following definitions in its general conditions, special conditions, technical specifications, instructions to bidders, addenda and any other document used in the bidding process:
INVITATION TO BID (ITB) when the City is requesting bids from qualified Bidders.
REQUEST FOR PROPOSALS (RFP) when the City is requesting proposals from qualified Proposers.
BID – a price and terms quote received in response to an ITB.
PROPOSAL – a proposal received in response to an RFP.
BIDDER – Person or firm submitting a Bid.
PROPOSER – Person or firm submitting a Proposal.
RESPONSIVE BIDDER – A person whose bid conforms in all material respects to the terms and conditions included in the ITB.
RESPONSIBLE BIDDER – A person who has the capability in all respects to perform in full the contract requirements, as stated in the ITB, and the integrity and reliability that will assure good faith performance.
FIRST RANKED PROPOSER – That Proposer, responding to a City RFP, whose Proposal is deemed by the City, the most advantageous to the City after applying the evaluation criteria contained in the RFP.
SELLER – Successful Bidder or Proposer who is awarded a Purchase Order or Contract to provide goods or services to the City.
CONTRACTOR – Successful Bidder or Proposer who is awarded a Purchase Order, award Contract, Blanket Purchase Order agreement, or Term Contract to provide goods or services to the City.
CONTRACT – A deliberate verbal or written agreement between two or more competent parties to perform or not to perform a certain act or acts, including all types of agreements, regardless of what they may be called, for the procurement or disposal of equipment, materials, supplies, services or construction.
CONSULTANT – Successful Bidder or Proposer who is awarded a contract to provide professional services to the City.
The following terms may be used interchangeably by the City: ITB, or RFP; Bid or Proposal; Bidder, Proposer, or Seller; Contractor or Consultant; Contract, Award, Agreement or Purchase Order.

- 2.02 SPECIAL CONDITIONS:** Any and all Special Conditions contained in this ITB that may be in variance or conflict with these General Conditions shall have precedence over these General Conditions. If no changes or deletions to General Conditions are made in the Special Conditions, then the General Conditions shall prevail in their entirety,

PART III BIDDING AND AWARD PROCEDURES:

- 3.01 SUBMISSION AND RECEIPT OF BIDS:** To receive consideration, bids must be received prior to the bid opening date and time. Unless otherwise specified, Bidder's should use the proposal forms provided by the City. These forms may be duplicated, but failure to use the forms may cause the bid to be rejected. Any erasures or corrections on the bid must be made in ink and initialed by Bidder in ink. All information submitted by the Bidder shall be printed, typewritten or filled in with pen and ink. Bids shall be signed in ink. Separate bids must be submitted for each ITB issued by the City in separate sealed envelopes properly marked. When a particular ITB or RFP requires multiple copies of bids or proposals they may be included in a single envelope or package properly sealed and identified. Only send bids via facsimile transmission (FAX) if the ITB specifically states that bids sent via FAX will be considered. If such a statement is not included in the ITB, bids sent via FAX will be rejected. Bids will be publicly opened in the Procurement Office, or other designated area, in the presence of Bidder's, the public, and City staff. Bidders and the public are invited and encouraged to attend bid openings. Bids will be tabulated and made available for review by Bidder's and the public in accordance with applicable regulations.
- 3.02 MODEL NUMBER CORRECTIONS:** If the model number for the make specified in this ITB is incorrect, or no longer available and replaced with an updated model with new specifications, the Bidder shall enter the correct model number on the bidder proposal page. In the case of an updated model with new specifications, Bidder shall provide adequate information to allow the City to determine if the model bid meets the City's requirements.
- 3.03 PRICES QUOTED:** Deduct trade discounts, and quote firm net prices. Give both unit price and extended total. In the case of a discrepancy in computing the amount of the bid, the unit price quoted will govern. All prices quoted shall be F.O.B. destination, freight prepaid (Bidder pays and bears freight charges, Bidder owns goods in transit and files any claims), unless otherwise stated in Special

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Conditions. Each item must be bid separately. No attempt shall be made to tie any item or items contained in the ITB with any other business with the City.

- 3.04 TAXES:** The City of Fort Lauderdale is exempt from Federal Excise and Florida Sales taxes on direct purchase of tangible property. Exemption number for Federal Excise taxes is 59-74-0111K, and State Sales tax exemption number is 16-03-196479-54C.
- 3.05 WARRANTIES OF USAGE:** Any quantities listed in this ITB as estimated or projected are provided for tabulation and information purposes only. No warranty or guarantee of quantities is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.
- 3.06 APPROVED EQUAL:** When the technical specifications call for a brand name, manufacturer, make, model, or vendor catalog number with acceptance of APPROVED EQUAL, it shall be for the purpose of establishing a level of quality and features desired and acceptable to the City. In such cases, the City will be receptive to any unit that would be considered by qualified City personnel as an approved equal. In that the specified make and model represent a level of quality and features desired by the City, the Bidder must state clearly in his bid any variance from those specifications. It is the Bidder's responsibility to provide adequate information, in his bid, to enable the City to ensure that the bid meets the required criteria. If adequate information is not submitted with the bid, it may be rejected. The City will be the sole judge in determining if the item bid qualifies as an approved equal.
- 3.07 MINIMUM AND MANDATORY TECHNICAL SPECIFICATIONS:** The technical specifications may include items that are considered minimum, mandatory, or required. If any Bidder is unable to meet, or exceed these items, and feels that the technical specifications are overly restrictive, he must notify the Procurement Division immediately. Such notification must be received by the Procurement Division prior to the deadline contained in the ITB, for questions of a material nature, or prior to five (5) days before bid due and open date, whichever occurs first. If no such notification is received prior to that deadline, the City will consider the technical specifications to be acceptable to all bidders.
- 3.08 MISTAKES:** Bidders are cautioned to examine all terms, conditions, specifications, drawings, exhibits, addenda, delivery instructions and special conditions pertaining to the ITB. Failure of the Bidder to examine all pertinent documents shall not entitle him to any relief from the conditions imposed in the contract.
- 3.09 SAMPLES AND DEMONSTRATIONS:** Samples or inspection of product may be requested to determine suitability. Unless otherwise specified in Special Conditions, samples shall be requested after the date of bid opening, and if requested should be received by the City within seven (7) working days of request. Samples, when requested, must be furnished free of expense to the City and if not used in testing or destroyed, will upon request of the Bidder, be returned within thirty (30) days of bid award at Bidder's expense. When required, the City may request full demonstrations of units prior to award. When such demonstrations are requested, the Bidder shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a bid.
- 3.10 LIFE CYCLE COSTING:** If so specified in the ITB, the City may elect to evaluate equipment proposed on the basis of total cost of ownership. In using Life Cycle Costing, factors such as the following may be considered: estimated useful life, maintenance costs, cost of supplies, labor intensity, energy usage, environmental impact, and residual value. The City reserves the right to use those or other applicable criteria, in its sole opinion that will most accurately estimate total cost of use and ownership.
- 3.11 BIDDING ITEMS WITH RECYCLED CONTENT:** In addressing environmental concerns, the City of Fort Lauderdale encourages Bidders to submit bids or alternate bids containing items with recycled content. When submitting bids containing items with recycled content, Bidder shall provide documentation adequate for the City to verify the recycled content. The City prefers packaging consisting of materials that are degradable or able to be recycled. When specifically stated in the ITB, the City may give preference to bids containing items manufactured with recycled material or packaging that is able to be recycled.
- 3.12 USE OF OTHER GOVERNMENTAL CONTRACTS:** The City reserves the right to reject any part or all of any bids received and utilize other available governmental contracts, if such action is in its best interest.
- 3.13 QUALIFICATIONS/INSPECTION:** Bids will only be considered from firms normally engaged in providing the types of commodities/services specified herein. The City reserves the right to inspect the Bidder's facilities, equipment, personnel, and organization at any time, or to take any other action necessary to determine Bidder's ability to perform. The Procurement Manager reserves the right to reject bids where evidence or evaluation is determined to indicate inability to perform.
- 3.14 BID SURETY:** If Special Conditions require a bid security, it shall be submitted in the amount stated. A bid security can be in the form of a bid bond, postal money order, cashiers check, or irrevocable letter of credit. Bid security will be returned to the unsuccessful bidders as soon as practicable after opening of bids. Bid security will be returned to the successful bidder after acceptance of the performance bond or irrevocable letter of credit, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; and full execution of contract documents, if required; or conditions as stated in Special Conditions.
- 3.15 PUBLIC RECORDS:** Florida law provides that municipal records shall at all times be open for personal inspection by any person. Section 119.01, F.S., The Public Records Law. Information and materials received by City in connection with an ITB response shall be deemed to be public records subject to public inspection upon award, recommendation for award, or 10 days after bid opening, whichever occurs first. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. If the Proposer believes any of the information contained in his or her response is exempt from the Public Records Law, then the Proposer, must in his or her response, specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption, otherwise, the City will treat all materials received as public records.

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3.16 PROHIBITION OF INTEREST: No contract will be awarded to a bidding firm who has City elected officials, officers or employees affiliated with it, unless the bidding firm has fully complied with current Florida State Statutes and City Ordinances relating to this issue. Bidders must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Bidder and removal of the Bidder from the City's bidder lists and prohibition from engaging in any business with the City.

3.17 RESERVATIONS FOR AWARD AND REJECTION OF BIDS: The City reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The City also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City. The City reserves the right to make an award to the responsive and responsible bidder whose product or service meets the terms, conditions, and specifications of the ITB and whose bid is considered to best serve the City's interest. In determining the responsiveness of the offer and the responsibility of the Bidder, the following shall be considered when applicable: the ability, capacity and skill of the Bidder to perform as required; whether the Bidder can perform promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Bidder; the quality of past performance by the Bidder; the previous and existing compliance by the Bidder with related laws and ordinances; the sufficiency of the Bidder's financial resources; the availability, quality and adaptability of the Bidder's supplies or services to the required use; the ability of the Bidder to provide future maintenance, service or parts; the number and scope of conditions attached to the bid.

If the ITB provides for a contract trial period, the City reserves the right, in the event the selected bidder does not perform satisfactorily, to award a trial period to the next ranked bidder or to award a contract to the next ranked bidder, if that bidder has successfully provided services to the City in the past. This procedure to continue until a bidder is selected or the contract is re-bid, at the sole option of the City.

3.18 LEGAL REQUIREMENTS: Applicable provisions of all federal, state, county laws, and local ordinances, rules and regulations, shall govern development, submittal and evaluation of all bids received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a bid response hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any bidder shall not constitute a cognizable defense against the legal effect thereof.

PART IV BONDS AND INSURANCE

4.01 PERFORMANCE BOND/IRREVOCABLE LETTER OF CREDIT: If a performance bond or irrevocable letter of credit is required in Special Conditions, the Contractor shall within fifteen (15) working days after notification of award, furnish to the City a Performance Bond or an Unconditional Irrevocable Letter of Credit payable to the City of Fort Lauderdale, Florida, in the face amount specified in Special Conditions as surety for faithful performance under the terms and conditions of the contract. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing Performance Bond. The Performance Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent. If a Letter of Credit is chosen, it must be in a form acceptable to the City, drawn on a local (Broward, Dade or Palm Beach Counties) bank acceptable to the City and issued in favor of the City of Fort Lauderdale, Florida. If a Bidder wishes to use a non-local bank, he must have prior City approval of the requirements to draw against the Letter of Credit.

Acknowledgement and agreement is given by both parties that the amount herein set for the Performance Bond or Irrevocable Letter of Credit is not intended to be nor shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Contractor to the City in the event of a material breach of this Agreement by the Contractor.

4.02 INSURANCE: If the Contractor is required to go on to City property to perform work or services as a result of ITB award, the Contractor shall assume full responsibility and expense to obtain all necessary insurance as required by City or specified in Special Conditions.

The Contractor shall provide to the Procurement Division original certificates of coverage and receive notification of approval of those certificates by the City's Risk Manager prior to engaging in any activities under this contract. The Contractor's insurance is subject to the approval of the City's Risk Manager. The certificates must list the City as an ADDITIONAL INSURED and shall have no less than thirty (30) days written notice of cancellation or material change. Further modification of the insurance requirements may be made at the sole discretion of the City's Risk Manager if circumstances change or adequate protection of the City is not presented. Bidder, by submitting his bid, agrees to abide by such modifications.

PART V PURCHASE ORDER AND CONTRACT TERMS:

5.01 COMPLIANCE TO SPECIFICATIONS, LATE DELIVERIES/PENALTIES: Items offered may be tested for compliance to bid specifications. Items delivered which do not conform to bid specifications may be rejected and returned at Contractor's expense. Any violation resulting in contract termination for cause or delivery of items not conforming to specifications, or late delivery may also result in:

- Bidder's name being removed from the City's bidder's mailing list for a specified period and Bidder will not be recommended for any award during that period.
- All City Departments being advised to refrain from doing business with the Bidder.
- All other remedies in law or equity.

5.02 ACCEPTANCE, CONDITION, AND PACKAGING: The material delivered in response to ITB award shall remain the property of the Seller until a physical inspection is made and the material accepted to the satisfaction of the City. The material must comply fully with the terms of the ITB, be of the required quality, new, and the latest model. All containers shall be suitable for storage and shipment by common carrier, and all prices shall include standard commercial packaging. The City will not accept substitutes of any kind. Any substitutes or material not meeting specifications will be returned at the Bidder's expense. Payment will be made only after City receipt and acceptance of materials or services.

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- 5.03 SAFETY STANDARDS:** All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupational Safety and Health Act of 1970 as amended, and be in compliance with Chapter 442, Florida Statutes. Any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this order must be accompanied by a completed Material Safety Data Sheet (MSDS).
- 5.04 ASBESTOS STATEMENT:** All material supplied must be 100% asbestos free. Bidder, by virtue of bidding, certifies that if awarded any portion of the ITB he will supply only material or equipment that is 100% asbestos free.
- 5.05 OTHER GOVERNMENTAL ENTITIES:** If the Bidder is awarded a contract as a result of this ITB, he will, if he has sufficient capacity or quantities available, provide to other governmental agencies, so requesting, the products or services awarded in accordance with the terms and conditions of the ITB and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.
- 5.06 VERBAL INSTRUCTIONS PROCEDURE:** No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any City employee. Only those communications which are in writing from an authorized City representative may be considered. Only written communications from Contractors, which are assigned by a person designated as authorized to bind the Contractor, will be recognized by the City as duly authorized expressions on behalf of Contractors.
- 5.07 INDEPENDENT CONTRACTOR:** The Contractor is an independent contractor under this Agreement. Personal services provided by the Proposer shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies unless otherwise stated in this ITB, and other similar administrative procedures applicable to services rendered under this contract shall be those of the Contractor.
- 5.08 INDEMNITY/HOLD HARMLESS AGREEMENT:** The Contractor agrees to protect, defend, indemnify, and hold harmless the City of Fort Lauderdale and its officers, employees and agents from and against any and all losses, penalties, damages, settlements, claims, costs, charges for other expenses, or liabilities of every and any kind including attorney fees, in connection with or arising directly or indirectly out of the work agreed to or performed by Contractor under the terms of any agreement that may arise due to the bidding process. Without limiting the foregoing, any and all such claims, suits, or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violations of any applicable Statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the indemnity hereunder.
- 5.09 TERMINATION FOR CAUSE:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the provisions of this Agreement, the City may upon written notice to the Contractor terminate the right of the Contractor to proceed under this Agreement, or with such part or parts of the Agreement as to which there has been default, and may hold the Contractor liable for any damages caused to the City by reason of such default and termination. In the event of such termination, any completed services performed by the Contractor under this Agreement shall, at the option of the City, become the City's property and the Contractor shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. The Contractor, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purpose of setoff until such time as the amount of damages due to the City from the Contractor can be determined.
- 5.10 TERMINATION FOR CONVENIENCE:** The City reserves the right, in its best interest as determined by the City, to cancel contract by giving written notice to the Contractor thirty (30) days prior to the effective date of such cancellation.
- 5.11 CANCELLATION FOR UNAPPROPRIATED FUNDS:** The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.
- 5.12 RECORDS/AUDIT:** The Contractor shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City's Internal Auditor. The Contractor agrees to make available to the City's Internal Auditor, during normal business hours and in Broward, Dade or Palm Beach Counties, all books of account, reports and records relating to this contract for the duration of the contract and retain them for a minimum period of one (1) year beyond the last day of the contract term.
- 5.13 PERMITS, TAXES, LICENSES:** The successful Contractor shall, at his own expense, obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried on under this contract.
- 5.14 LAWS/ORDINANCES:** The Contractor shall observe and comply with all Federal, state, local and municipal laws, ordinances rules and regulations that would apply to this contract.
- 5.15 NON-DISCRIMINATION:** There shall be no discrimination as to race, sex, color, creed, age or national origin in the operations conducted under this contract.
- 5.16 UNUSUAL CIRCUMSTANCES:** If during a contract term where costs to the City are to remain firm or adjustments are restricted by a percentage or CPI cap, unusual circumstances that could not have been foreseen by either party to the contract occur, and those circumstances significantly affect the Contractor's cost in providing the required items or services, then the Contractor may request adjustments to the costs to the City to reflect the changed circumstances. The circumstances must be beyond the control of the Contractor, and the requested adjustments must be fully documented. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In

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the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the City will reserve the following options:

1. The contract can be canceled by the City upon giving thirty (30) days written notice to the Contractor with no penalty to the City or Contractor. The Contractor shall fill all City requirements submitted to the Contractor until the termination date contained in the notice.
2. The City requires the Contractor to continue to provide the items and services at the firm fixed (non-adjusted) cost until the termination of the contract term then in effect.
3. If the City, in its interest and in its sole opinion, determines that the Contractor in a capricious manner attempted to use this section of the contract to relieve themselves of a legitimate obligation under the contract, and no unusual circumstances had occurred, the City reserves the right to take any and all action under law or equity. Such action shall include, but not be limited to, declaring the Contractor in default and disqualifying him for receiving any business from the City for a state period of time.

If the City does agree to adjusted costs, these adjusted costs shall not be invoiced to the City until the Contractor receives notice in writing signed by a person authorized to bind the City in such matters.

- 5.17 ELIGIBILITY:** If applicable, the Contractor must first register with the Department of State of the State of Florida, in accordance with Florida State Statutes, prior to entering into a contract with the City.
- 5.18 PATENTS AND ROYALTIES:** The Contractor, without exception, shall indemnify and save harmless the City and its employees from liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the contract, including its use by the City. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.
- 5.19 ASSIGNMENT:** Contractor shall not transfer or assign the performance required by this ITB without the prior written consent of the City. Any award issued pursuant to this ITB, and the monies, which may become due hereunder, are not assignable except with the prior written approval of the City Manager or selected designee.
- 5.20 LITIGATION VENUE:** The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Broward County, Florida and that all litigation between them in the federal courts shall take place in the Southern District in and for the State of Florida.

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